IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.648 of 2006

Mr.Mukesh Sabhapati Pandey .. Petitioner.
Vs.
1.M/s.Phoenix Real
Estate and Ors. .. Respondents.

None for the petitioner.
Mrs.M.H.Mhatre A.P.P. for the State.

CORAM : D.B.BHOSALE, J.

DATED : 7th JUNE, 2006

P.C.:

. Heard learned A.P.P. for the State.

2. By this petition, the petitioner is seeking to quash and set aside the FIR No.478 of 2005. This Court on 27.4.2006 after hearing the learned counsel for the petitioner had passed the following order:

> "1. This is an application for quashing of an F.I.R. On perusal of the F.I.R., prima facie, it appears that there are serious offences including the offence punishable of life imprisonment. Merely because the matter is settled with the complainant, the same cannot be a ground for quashing F.I.R. The Advocate for the petitioner seeks time to produce the authorities. S.O. to 7.6.2006.
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> 2. The Advocate for the petitioner prays for an order restraining the respondent no.2 from taking coercive steps. If such steps like arrest are likely to be taken, there is always liberty to the petitioner to approach the concerned court for appropriate relief in that regard."

3. It is well settled position in law that the court will not be justified in embarking upon an

enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice. The FIR is only an intimation to move the machinery and to investigate into a cognizable offence and, therefore, while exercising the power and deciding whether the investigation itself should be quashed, utmost care should be taken by the Court and at that stage, it is not possible for the Court to shift the materials or to weigh the materials and then come to the conclusion one way or the other. This is settled by the Supreme Court in **State of Kerala Vs. O.C.Kuttan (1999) 8 SCC 651**, in the case of **State of U.P. Vs. O.P.Sharma (1996) 7 SCC 705** a three-Judge Bench of this Court indicated that the High Court should be loath to interfere at the threshold to thwart the prosecution exercising its inherent power under section 482 or under Articles 226 and 227 of the Constitution of India, as the case may be, and allow the law to take its own course. Keeping the aforesaid position in law settled by the Supreme Court in view and considering that in any case it cannot be said that the complaint does not disclose any offence at all, this writ petition cannot be entertained. The writ petition, therefore, fails and is dismissed as such.

(D.B.Bhosale, J.)